WOMEN'S BUREAU
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# ISSUE BRIEF

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# DESIGNING PAID LEAVE POLICIES: LESSONS FROM PAID LEAVE IN THE U.S. AND AROUND THE WORLD[1]

Sophia M. Mitchell and Mathilde Roux | U.S. Department of Labor

**Countries around the world have laws providing paid and unpaid leave for various medical and caregiving needs. While the United States (U.S.) is an outlier, lacking a national paid family and medical leave policy, 13 states and the District of Columbia have enacted paid family and medical leave programs that provide employees with paid time off to care for themselves or a loved one. Many of these programs continue to expand to meet caregivers' need for leave.[2] State paid family and medical leave programs are structured to be inclusive of all people, regardless of gender, and enable workers to take time off for a variety of reasons. As the U.S. considers a national paid family and medical leave policy, we can take into account best practices from other countries and from existing state programs to ensure that paid leave helps advance gender equity in the workplace.**

## Paid and Unpaid Leave in the U.S.

### Family and Medical Leave Act (FMLA)[3]

The Family and Medical Leave Act (FMLA) provides eligible workers of covered employers with up to 12 weeks of unpaid, job-protected leave to care for themselves, a covered family member or a new child; or attend to certain military family needs.[4] This nontransferable entitlement allows spouses, parents and children in caretaking roles to meet their caregiving needs. For example, a mother and father could both take FMLA leave from work to bond with their new foster child for up to 12 weeks. Although unpaid, this job protection provides workers taking leave with the security of knowing that they will be restored to the same or an equivalent position, that provides the same pay and benefits, upon their return.

Only about 56 percent of U.S. employees are eligible for FMLA, often because they do not meet the hours worked or tenure requirements.[i] Lack of pay is a barrier for many people who need leave but don't take it – 18.9 percent of men and 12.5 percent of women cite inability to afford lost income as a reason for not taking leave.[ii]

### State Paid Family and Medical Leave Programs

The U.S. is an outlier, as almost all other countries provide some amount of paid leave for varying reasons (such as the types of reasons covered under the FMLA) to people residing within their borders.[iii] In the past 20 years, there has been

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1. Any links to non-federal websites in this issue brief provide additional information that is consistent with the intended purpose of this federal site, but linking to such sites does not constitute an endorsement by the U.S. Department of Labor of the information or organization providing such information. For more information, please visit https://www.dol.gov/general/disclaim.

2. For more information about existing state paid leave programs, see https://www.dol.gov/sites/dolgov/files/WB/paid-leave/HistoryOfPaidLeaveUS.pdf.

3. For more information see the Department of Labor's Wage and Hour Division's fact sheet on the FMLA: https://www.dol.gov/agencies/whd/fact-sheets/28-fmla.

4. Military caregiver leave may extend up to 26 weeks. For more information, see https://www.dol.gov/agencies/whd/fact-sheets/28m-fmla-military-family.

a rapid expansion of state paid family and medical leave programs to fill this gap.[5] As of January 1, 2024, 13 states[6] and the District of Columbia have enacted paid family and medical leave programs. These programs provide workers with paid leave to care for themselves, a loved one[7] or a new child. While there are variations in design and implementation among states that have created such programs, all states offer an equal number of weeks for all workers, regardless of gender, to care for themselves or care for a loved one.

### *Impact of Wage Replacement Level on Program Usage*

State paid family and medical leave programs provide workers with wage replacement while on leave to care for themselves, a family member or someone who is like family, or a new child.[8, 9] Adequate wage replacement is crucial to making caregiving leave possible, given that the second highest reason for workers not taking leave, even when needed, is an inability to afford lost income.[iv] For example, a report examining the first decade of California's paid family leave law found that approximately one third of the 500 study participants did not apply to the program because of the low wage replacement (at the time of the study, the fixed wage replacement rate was 55 percent of the worker's regular pay).[v] Researchers suggest that due to the low wage replacement, mothers made the decision to only exhaust approximately 40 to 50 percent of their family leave for bonding with a new child.[vi] In 2017, California shifted to progressive wage replacement, which provides low-wage workers with a greater amount of their weekly wages (70 percent, with other workers receiving 60 percent up to the weekly maximum).[10] Prior to implementing the progressive wage replacement in January 2018, the total average paid leave claim was approximately 5.4 weeks. By 2023, the average paid leave claim increased to 7.2 weeks,[vii] which may be due to a variety of factors, such as the expansion of the paid family leave program, increased awareness of the program or changes in caregiving responsibilities and attitudes. Numerous state paid leave programs that have been established in recent years use progressive wage replacement, providing low-wage workers with a wage replacement ranging from 80 to 100 percent, and higher earners with a smaller percentage.

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5. Since 2020, federal employees (who are generally not covered under state paid family and medical leave laws) have had access to up to 12 weeks of paid parental leave for the birth or placement of a child under the Federal Employee Paid Leave Act (FEPLA). For more information, see https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/paid-parental-leave/.
Data from the first 15 months of implementation showed that women more often used the full 12 weeks of leave available under FEPLA. See https://www.opm.gov/about-us/reports-publications/agency-reports/paid-parental-leave-report.pdf.

6. California (2002), New Jersey (2008), Rhode Island (2013), New York (2016), District of Columbia (2017), Washington (2017), Massachusetts (2018), Connecticut (2019), Oregon (2019), Colorado (2020), Maryland (2022), Delaware (2022), Minnesota (2023), and Maine (2023). Although programs have been established in these states, the following states' programs will become effective in upcoming years: Maryland (2026), Delaware (2026), Minnesota (2026), and Maine (2026). See https://www.dol.gov/sites/dolgov/files/WB/paid-leave/HistoryOfPaidLeaveUS.pdf.

7. In numerous states, the definition of family member includes: parent-in-law, grandparent, sibling, domestic partner, grandchild and chosen family member. We have used the phrase "loved one" to capture this expansive definition of family member. For additional information on specific state leave programs, see https://www.dol.gov/agencies/wb/paid-leave/State-Paid-Family-Medical-Leave-Laws.

8. In numerous states, the reasons for leave include: attending to military family needs, using safe leave following an incident of domestic or sexual violence, or receiving pregnancy-related medical care. For additional information on specific state leave programs, see https://www.dol.gov/agencies/wb/paid-leave/State-Paid-Family-Medical-Leave-Laws. For additional information on safe leave within paid family and medical leave, see: https://www.dol.gov/sites/dolgov/files/WB/SafeLeaveInStatePaidFamilyAndMedicalLeavePrograms.pdf.

9. Some state paid leave programs are job-protected and/or include anti-retaliation provisions, to ensure that workers can return to their position after taking caregiving leave. Employees covered by state paid leave programs that do not include job protection may still have job protection under the federal FMLA or other federal laws (Americans with Disabilities Act, Pregnant Workers Fairness Act, Pregnancy Discrimination Act or Title VII of the Civil Rights Act). Some states also provide job-protected unpaid leave under state law that may be used concurrently with the state's paid leave program. For more information about job protection in state paid leave programs, see https://www.dol.gov/sites/dolgov/files/WB/paid-leave/HistoryOfPaidLeaveUS.pdf.

10. In 2025, the wage replacement rate for low-wage workers will increase to 95 percent, with other workers receiving 70 percent up to the weekly maximum. For additional information, see CA SB-951: https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB951.

### *Impact of Program Design on Gender Inclusion*

Research on bonding leave in states with paid leave programs found that access to paid leave increases men's usage of leave. Research found that access to California's paid family leave program increased fathers' length of leave by a little under a week, raising the average length of leave from two weeks to approximately three weeks (at the time of this study, the maximum length of leave for family leave was six weeks).[viii] Another study found that California's paid family leave program increased fathers' leave taking within the first year of their first child's life by 46 percent.[ix] In married dual-income households, joint leave by both mother and father increased by 28 percent, and father-only use of bonding leave (where fathers were the primary caretakers while the mother returned to work) increased by 50 percent.[x] While more research is needed on men's use of leave in states with paid leave programs, paid leave provides families (including men and fathers) with the opportunity to address common, as well as complex, caregiving needs.

## Paid Leave Around the World

Most countries around the world have separate leave entitlements for various leave needs, whereas comparable entitlements in the U.S. are covered under a single program such as the FMLA and/or state paid family and medical leave programs, making a comparison across countries imperfect. Although countries structure their leave programs differently, most of them provide statutory entitlements to paid leave that enable workers to take paid time off to care for themselves and their families. This includes leave during pregnancy and while recovering from childbirth, leave to care for new children (maternity, paternity and/or parental leave[11]), and long-term care leave.[12] Many countries also provide other forms of leave outside of vacation time that can be used for caregiving and medical reasons including sick leave,[xi] time off to care for sick children or other family members,[xii] and childcare leave after parental leave.[xiii]

Leave program designs and features (such as eligibility requirements, length of leave, level of wage replacement and job protection) vary widely among countries and among types of leave.[xiv] Most countries provide pay for leave through social insurance or a mixed system involving a shared responsibility between social safety net programs and employers, with some leave types more often paid by employers (e.g., paternity leave[xv]). Despite the variation in features, by using a social insurance or mixed system, countries ensure that access to paid leave is not wholly tied to a particular employer. Moreover, many countries' paid leave policies are designed to ensure that most workers are covered.[13]

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[11] As used here, "parental leave" means long-term caregiving leave for parents to care for a child after maternity and paternity leave expire. Some countries have replaced maternity and paternity leave with a parental leave program available to both parents as an individual or shared entitlement (or a combination). For more information, see https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_838653.pdf and https://www.leavenetwork.org/fileadmin/user_upload/k_leavenetwork/annual_reviews/2023/Blum_etal_LPRN_full_report_2023.pdf.

[12] Long-term care leave generally includes leave to care for "family members who have a long-term functional dependency, for example, persons who have difficulties in carrying out activities of daily living, such as bathing, dressing and getting in and out of bed." See https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_838653.pdf.

[13] Certain groups of workers are commonly excluded from paid leave protections such as migrant workers, domestic workers, agricultural workers, part-time workers, and self-employed workers. Additionally, countries vary in providing coverage for adoptive and/or same-sex parents. For more information, see https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_838653.pdf.
Even if they are not legally excluded, workers' access to and use of paid leave may be limited by implementation decisions or insufficient enforcement by responsible authorities. For more information about implementation challenges in U.S. state paid family and medical leave programs, see https://www.dol.gov/sites/dolgov/files/WB/paid-leave/PaidLeaveEquityInImplementation.pdf.
Unions and worker organizations have also been found to increase access to benefits such as paid leave by advocating for new laws or negotiating collective bargaining agreements and helping workers understand their rights under existing laws. For more information, see https://www.dol.gov/sites/dolgov/files/ILAB/Worker-Voice-Literature-Review-3-6-24.pdf.

## Leave for Parents

Although access to paid leave for care of new children is generally high around the world and has increased since the 1970s,[xvi] mothers and fathers tend to access and use it unevenly.[14] Total leave available to fathers[xvii] is often shorter than that available to mothers[xviii] (when considering available maternity, paternity and parental leave), in part because leave reserved for fathers[xix] is generally much shorter than that reserved for mothers.[xx] In countries with fully or partially shared parental leave,[xxi] mothers usually take most of the leave available.[xxii] Even in countries with long amounts of father-specific leave, fathers often do not take the full leave available to them.[xxiii]

As many countries have increased entitlements to leave for parents, take-up rates have not always kept pace with the availability of leave, particularly for fathers. Societal and cultural norms around men's roles as breadwinners and women's roles as caregivers contribute to fathers' low take-up rates.[xxiv] Policy design also plays a role – for example, low wage replacement rates and lack of job protection can make it more difficult for fathers to take the leave available to them.[xxv] Leave for fathers is more often unpaid, and even when it is paid, it usually has a lower wage replacement rate than leave for mothers.[xxvi] This can make taking leave unaffordable, particularly for families that depend on men as a primary or equal earner. Around the world, countries with higher wage replacement rates typically see higher take-up rates.[xxvii] Many countries do not provide job protection for father-specific leave,[xxviii] reducing take-up rates for the same reason – families relying on the father's income may not be able to risk loss of a job due to taking paternity leave.

Increasing men's take-up of leave is critical to reducing gender gaps in employment and ensuring more equal division of unpaid labor. Research has shown that when only mothers have access to leave or their leave period is very long (longer than 24-30 weeks), it can lead women to drop out of the labor force or reduce their wages in the long run.[xxix] More balanced leave entitlements for mothers and fathers are associated with a higher labor force participation rate among women.[xxx] To encourage more equal sharing of care responsibilities, the European Union (E.U.) passed E.U. Directive 2019/1158 requiring member states to meet new minimum requirements "related to paternity leave, parental leave and carers' leave, and to flexible working arrangements for workers who are parents, or carers."[xxxi] As a result, some European countries have recently reformed their maternity, paternity and parental leave schemes to comply with the Directive. Other countries outside the E.U. have also made changes to their maternity, paternity and parental leave entitlements in an effort to reduce disparities in access to and use of leave between men and women.[xxxii] Some countries have altered their leave structures to encourage higher uptake by fathers, such as providing additional time if both parents take leave or the father takes a minimum amount of the shared leave entitlement (e.g., Portugal, Canada), and/or making fathers' leave an individual and nontransferable entitlement and thus effectively reducing total leave available to the family if the father does not take leave (e.g., Norway, Germany, Finland).[xxxiii] Some of these initiatives are relatively new, and it is not yet clear how effective they will be at increasing fathers' take-up of leave. Research from Quebec (Canada) indicates that fathers' quotas may be effective in increasing men's use of parental leave and have additional effects on division of household labor beyond the leave period, increasing gender equity in the home.[xxxiv] However, evidence suggests that earmarking leave for fathers may not increase their use of leave if the wage replacement rate is too low or other barriers (such as administrative hurdles or employer culture) are not addressed.[xxxv] Some research also indicates that policies that encourage more equal sharing of caregiving, such as leave for fathers, may weaken traditional gender norms and increase support of gender equity.[xxxvi]

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[14] Many countries' leave entitlements for care of a new child use language referring to different-sex couples (i.e., mother, father), however in many cases same-sex couples can access leave as the birthing parent or primary caregiver, or through a separate adoption leave entitlement. In some countries, leave entitlements are not gendered and instead are designated for or can be transferred between the birthing/non-birthing parents (e.g., Spain), or the primary/secondary caregiver or custodial/non-custodial parent (e.g., Iceland, New Zealand). See https://web-archive.oecd.org/2023-01-12/649254-PF2-6-same-sex-parents-leave-entitlements.pdf and https://www.leavenetwork.org/fileadmin/user_upload/k_leavenetwork/annual_reviews/2023/Blum_etal_LPRN_full_report_2023.pdf.

## Conclusion

Many countries around the world have long guaranteed paid leave for medical and caregiving reasons. Although paid leave policies in other countries are not directly comparable to those in the U.S. and originated under different social and political contexts, the U.S. can learn from these experiences to inform the creation of its own program. For example, the U.S. can learn from other countries' experiences with leave for new parents. In many countries, maternity leave has existed for a longer period of time and provides lengthier and more generous benefits than paternity leave. As countries examine ways to increase gender equity, they have noted the ways in which the design of these policies has exacerbated gender roles and social norms that encourage men to pursue paid work and assign women responsibility for unpaid caregiving. These countries are now altering their policies to encourage men to take on more caregiving responsibilities and get more women engaged in the labor force, including by moving toward individual, nontransferable leave entitlements (as the U.S. already does through the FMLA and state paid leave programs) or providing a leave bonus if the father takes a minimum amount of the shared leave entitlement. Insufficient wage replacement and lack of job protection also continue to be barriers to fathers' uptake in certain countries – something that has also been found in state paid leave programs in the U.S. As the U.S. considers federal and state paid leave programs, lessons from other countries combined with those from existing state programs can help identify best practices for designing and implementing paid leave.

# ENDNOTES

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